House of Representatives



General Assembly

File No. 235

January Session, 2015

Substitute House Bill No. 6839

House of Representatives, March 26, 2015

The Committee on Environment reported through REP. ALBIS of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING A LONG ISLAND SOUND BLUE PLAN AND RESOURCE AND USE INVENTORY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (Effective July 1, 2015) (a) There is established a
- 2 Long Island Sound Resource and Use Inventory and Blue Plan
- 3 Advisory Committee that shall assist the Commissioner of Energy and
- 4 Environmental Protection with the drafting of the Long Island Sound
- 5 Resource and Use Inventory and the Long Island Sound Blue Plan,
- 6 described in subsection (b) of this section. Such advisory committee
- 7 shall consist of the following members: (1) The Commissioners of
- 8 Energy and Environmental Protection, Transportation, and
- 9 Agriculture, or said commissioners' designees, (2) the Secretary of the
- 10 Office of Policy and Management, or the secretary's designee, (3) a
- 11 faculty member of the Department of Marine Sciences at The
- 12 University of Connecticut, as appointed by the Governor, (4) a
- 13 representative of the Connecticut Siting Council, (5) a representative of
- 14 the marine trades industry, as appointed by the minority leader of the

Senate, (6) a representative of a conservation organization that specializes in coastal issues, as appointed by the president pro tempore of the Senate, (7) a representative of the gas and electric distribution industries, as appointed by the Governor, (8) a representative of the commercial finfish industry, as appointed by the speaker of the House of Representatives, (9) a representative of the recreational fishing and hunting community, as appointed by the minority leader of the House of Representatives, (10) a representative of a nonprofit conservation organization with expertise in marine assessments and planning, as appointed by the Governor, (11) a representative of either the shellfish industry or an organization familiar with commercial or recreational aquaculture, as appointed by the Governor, (12) two representatives of coastal municipalities, one appointed by the majority leader of the House of Representatives and one appointed by the Governor, and (13) a representative of the commercial boating or shipping industries, appointed by the majority leader of the Senate. The Commissioner of Energy and Environmental Protection shall convene the first meeting of such advisory committee not later than sixty days after the effective date of this section and shall serve as the chairperson of such advisory committee. The commissioner may request members of the advisory committee to assist with administrative functions of the advisory committee, including, but not limited to, convening and noticing meetings and drafting assessments and reports. The advisory committee shall be located in the Department of Energy and Environmental Protection for administrative purposes only.

(b) The Commissioner of Energy and Environmental Protection, in conjunction with the Long Island Sound Resource and Use Inventory and Blue Plan Advisory Committee, established pursuant to subsection (a) of this section, and within available resources, shall: (1) Coordinate the completion of a Long Island Sound Resource and Use Inventory by a Long Island Sound Inventory and Science subcommittee to be convened by The University of Connecticut. Such resource and use inventory shall be comprised of the best available information and data regarding the natural resources within Long Island Sound and the uses of Long Island Sound, including, but not

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50 limited to, all: (A) Plants; (B) animals; (C) habitats; (D) ecologically 51 significant areas in nearshore and offshore waters and substrates of 52 such waters; (E) uses of such waters and substrates, including, but not 53 limited to: (i) Recreational and commercial boating and fishing, (ii) 54 shellfish beds, (iii) aquaculture facilities, (iv) shipping corridors, (v) 55 energy facilities, and (vi) electric power line, gas pipeline and 56 telecommunications crossings; and (F) any updates and additions to 57 the comprehensive environmental assessment and plan completed, in 58 accordance with section 25-157a of the general statutes; and (2) 59 develop a Long Island Sound Blue Plan that may include maps, 60 illustrations and other media. Such Long Island Sound Blue Plan shall: 61 (A) Establish the state's goals, siting priorities and standards for 62 ensuring effective stewardship of the waters of Long Island Sound 63 held in trust for the benefit of the public; (B) promote science-based 64 management practices that take into account the existing natural, 65 social, cultural, historic and economic characteristics of planning areas 66 within Long Island Sound; (C) preserve and protect traditional riparian and water-dependent uses and activities; (D) promote 67 68 maximum public accessibility to Long Island Sound's waters for 69 traditional public trust uses, such as recreational and commercial 70 boating and fishing, except when necessary to protect coastal 71 resources, preserve public health, safety and welfare, or when it is in 72 the interest of national security; (E) reflect the importance of the waters 73 of Long Island Sound to the citizens of this state who derive 74 livelihoods and recreational benefits from boating and fishing; (F) 75 analyze the implications of existing and potential uses and users of 76 Long Island Sound with a focus on avoiding potential use conflicts; (G) 77 be consistent with the Long Island Sound Resources and Uses 78 Inventory, prepared pursuant to subdivision (1) of this subsection, with provision for the ongoing acquisition and application of up-to-79 80 date resource and use data, including seafloor mapping; (H) reflect the 81 value of biodiversity and ecosystem health in regard to the 82 interdependence of ecosystems; (I) identify and protect special, 83 sensitive or unique estuarine and marine life and habitats, including, 84 but not limited to, scenic and visual resources; (J) adapt to evolving

85 knowledge and understanding of the marine environment, including 86 adaptation to climate change and rise in sea level; (K) foster 87 sustainable uses that capitalize on economic opportunity without 88 significant detriment to the ecology or natural beauty of Long Island 89 Sound; (L) support the infrastructure necessary to sustain the economy 90 and quality of life for the citizens of this state; (M) be coordinated, to 91 the maximum extent feasible, with local, regional and federal planning 92 entities and agencies, including, but not limited to, the Long Island 93 Sound Study and National Ocean Policy's Northeast Regional 94 Planning Body and the Connecticut-New York Bi-State Marine Spatial 95 Planning Working Group; (N) be coordinated, developed and 96 implemented, to the maximum extent feasible, with the state of New 97 York; (O) be developed through a transparent and inclusive process 98 that seeks widespread participation of the public and stakeholders and 99 encourages public participation in decision making; (P) identify 100 appropriate locations and performance standards for activities, uses 101 and facilities regulated under existing state permit programs, 102 including, but not limited to, measures to guide siting of uses in a 103 manner compatible with said Long Island Sound Blue Plan; (Q) be 104 consistent with the state plan of conservation and development and the goals and policies described in section 22a-92 of the general 105 106 statutes; and (R) reflect the importance of planning for Long Island 107 Sound as an estuary that crosses state boundaries, including the 108 identification of potential measures that encourage such planning. The 109 commissioner may accept, on behalf of the state, any gifts, grants, 110 donations or bequests for the purposes of assisting the completion of 111 the Long Island Sound Resources and Use Inventory and the 112 development of a Long Island Sound Blue Plan.

(c) For the purposes of this section, the submerged lands and waters subject to the commissioner's planning, management and coordination authority under the Long Island Sound Blue Plan shall include Long Island Sound and its bays and inlets from the mean high water line, as defined by the most recent data of the National Oceanic and Atmospheric Administration, to the state's waterward boundaries with the states of New York and Rhode Island. Any siting policies,

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identification of locations, or performance standards for activities, uses and facilities under the Long Island Sound Blue Plan shall apply in a spatial planning area located seaward of the bathymetric contour of minus ten feet North American Vertical Datum to the state's waterward boundaries with the states of New York and Rhode Island provided such planning area shall not extend into any river that flows into the sound beyond the first motor vehicle bridge or railroad bridge that crosses such river. Such spatial planning area shall be designated on a map to be prepared by the advisory committee established pursuant to subsection (a) of this section.

- (d) The Long Island Sound Resource and Use Inventory and Blue Plan Advisory Committee shall hold not less than three public hearings in different coastal municipalities of the state to receive comments and submissions from the public and interested persons and may provide for other public outreach and input measures, as appropriate, to assure sufficient stakeholder engagement and representation. The advisory committee shall assist the commissioner in completing a draft of the Long Island Sound Resource and Use Inventory and the Long Island Sound Blue Plan not later than March 1, 2019.
- (e) During the drafting of the Long Island Sound Resource and Use Inventory and Long Island Sound Blue Plan, and prior to making such draft available for public comment, in accordance with subsection (f) of this section, the advisory committee shall consult with the Development, Commissioner of Economic and Community representatives of the telecommunications industry, waterfront businesses, the state's two federally recognized Indian tribes and the tourism or recreation industry. Additionally, the advisory committee shall, to the extent feasible, consult with the applicable New York state agencies, advisory counterparts and the Connecticut-New York Bi-State Marine Spatial Planning Working Group to devise a mutually agreeable process for developing the Long Island Sound Resource and Use Inventory and Long Island Sound Blue Plan.

(f) Upon completion of the draft Long Island Sound Resource and Use Inventory and the Long Island Sound Blue Plan, the Commissioner of Energy and Environmental Protection shall make such draft available for public review and comment and shall publish notice thereof in the Environmental Monitor and the Connecticut Law Journal. The commissioner shall cause such draft and notice of public comment period to be posted on the Internet web site of the Department of Energy and Environmental Protection and the Office of Policy and Management. Such notice of public comment period shall provide for a public comment period of not less than ninety days. Not later than ninety days after the end of such public comment period, the commissioner shall adopt a final draft of the Long Island Sound Resource and Use Inventory and the Long Island Sound Blue Plan.

(g) Upon completion of the final draft of the Long Island Sound Blue Plan, such plan shall be submitted to the joint standing committee of the General Assembly having cognizance of matters relating to the environment. Said committee, not later than forty-five days after the start of the next occurring legislative session following receipt of such plan, shall conduct a public hearing on the plan. Not later than forty-five days after such public hearing, said committee shall submit such plan, in conjunction with the committee's recommendation for approval or disapproval of such plan, to the General Assembly. Such plan shall become effective when approved by a majority vote of each chamber of the General Assembly. In the event that the General Assembly disapproves the plan, in whole or in part, such plan shall be deemed to be rejected and shall be returned to the advisory committee for revision.

(h) Upon approval of such inventory and plan: (1) Such plan shall be considered as a factor in the review of applications pursuant to sections 16-50k, 22-11h, 22-11i, 22-11j, 22a-6k, 22a-359, 22a-361, 22a-363b, 22a-363d, 22a-430, 25-157b, 26-194 and 26-257a of the general statutes and Section 401 of the Federal Water Pollution Control Act and may be utilized for guidance in preapplication discussions between the Commissioner of Energy and Environmental Protection

and applicants, (2) the Commissioner of Energy and Environmental Protection shall seek necessary federal approval to incorporate the Long Island Sound Blue Plan as an enforceable policy in the state's coastal management program under the federal Coastal Zone Management Act, (3) the Commissioner of Energy and Environmental Protection shall, within available resources, develop and implement a public outreach and information program to provide information to the public regarding the Long Island Sound Blue Plan, (4) the Commissioner of Energy and Environmental Protection shall provide for the review and update of such inventory and plan at least once every five years and any revision to such inventory and plan shall become effective upon approval by the General Assembly, in accordance with subsection (g) of this section, (5) the advisory committee, not later than six months after such approval, shall advise the commissioner on the operation, implementation and updating of the inventory and plan, as applicable, and shall meet on a quarterly basis to review implementation of such plan, identify emerging issues and recommend any necessary or desirable alterations or improvements to such plan, and (6) the advisory committee shall, within available resources, hold not less than one public hearing each year to receive comments and submissions from the public on such inventory and plan.

This act shal sections:	This act shall take effect as follows and shall amend the following sections:				
Section 1	July 1, 2015	New section			

ENV Joint Favorable Subst.

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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Various State Agencies	GF - Potential	Less than	Less than
	Cost	1,000	1,000

Municipal Impact: None

Explanation

This bill requires the Department of Energy and Environmental Protection (DEEP) commissioner, within available resources, to (1) coordinate the completion of an inventory of Long Island Sound's uses and natural resources by a University of Connecticut subcommittee (the "LIS Resource and Use Inventory") and (2) develop a plan to preserve and protect the Sound that may include maps, illustrations, and other media (the "Long Island Sound Blue Plan"). The commissioner must do these things in conjunction with a 16-member Long Island Sound Resource and Use Inventory and Blue Plan Advisory Committee the bill creates.

As DEEP's Office of Long Island Sound Programs has expertise and capacity¹ to perform this work, there is no fiscal impact anticipated for these requirements.

There may be a cost of less than \$1,000 in FY 16 and in FY 17 to those agencies participating in the Long Island Sound Resource and Use Inventory and Blue Plan Advisory Committee to reimburse legislators and agency staff for mileage expenses.

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Approximately twenty (20) full-time equivalents (FTE's).

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis sHB 6839

AN ACT CONCERNING A LONG ISLAND SOUND BLUE PLAN AND RESOURCE AND USE INVENTORY.

SUMMARY:

This bill requires the Department of Energy and Environmental Protection (DEEP) commissioner, within available resources, to:

- 1. coordinate the completion of an inventory of Long Island Sound's uses and natural resources by a University of Connecticut (UConn) subcommittee (the "Long Island Sound Resource and Use Inventory") and
- 2. develop a plan to preserve and protect the Sound that may include maps, illustrations, and other media (the "Long Island Sound Blue Plan").

The commissioner must do these things in conjunction with a 16-member Long Island Sound Resource and Use Inventory and Blue Plan Advisory Committee, which the bill creates.

The bill establishes a process for developing the inventory and plan, including provisions for public input. The draft inventory and plan must be completed by March 1, 2019 and the public must have at least 90 days for review and comment. The commissioner must adopt a final draft plan within 90 days after the public comment period ends. Once final, the bill requires the plan to be (1) reviewed by the Environment Committee and (2) submitted to the General Assembly for a vote before it can take effect. The bill requires the inventory and plan to be reviewed and updated every five years.

Under the bill, the plan's policies, locations, or standards must apply in a spatial planning area as depicted on a map the advisory

committee prepares. The plan must be considered by DEEP and other state or local agencies when reviewing applications to conduct certain coastal activities.

Lastly, the bill allows the commissioner to accept, on the state's behalf, gifts, grants, donations, or bequests to help complete the inventory and develop the plan.

EFFECTIVE DATE: July 1, 2015

LONG ISLAND SOUND RESOURCE AND USE INVENTORY

Under the bill, the inventory must be completed by a Long Island Sound Inventory and Science subcommittee convened by UConn. It must be comprised of the best available information and data on Long Island Sound's natural resources and uses, including all of its:

- 1. plants, animals, and habitats;
- 2. ecologically significant areas in nearshore and offshore waters and their substrates (surfaces where organisms grow);
- 3. uses of the waters and substrates, such as (a) boating and fishing; (b) shellfish beds; (c) aquaculture and energy facilities; (d) shipping corridors; and (e) electric power line, gas pipeline and telecommunications crossings; and
- 4. updates and additions to the comprehensive environmental assessment and plan on Long Island Sound crossings (such as pipelines).

LONG ISLAND SOUND BLUE PLAN

Purposes

The bill requires the plan to:

1. establish the state's goals, siting priorities, and standards for effective stewardship of the Sound's waters held in trust for public benefit;

2. promote science-based management practices that consider existing natural, social, cultural, historic, and economic characteristics of planning areas within the Sound;

- 3. preserve and protect traditional riparian (banks of rivers or other waters) and water-dependent uses and activities;
- 4. promote maximum public access to the Sound's waters for traditional public trust uses, such as boating and fishing, unless it is (a) a national security interest or (b) necessary to protect coastal resources or preserve public health, safety, and welfare;
- 5. reflect the Sound's importance to state residents who make a living from or enjoy recreational boating or fishing;
- 6. analyze the implications of existing and potential uses and users of the Sound, focusing on avoiding conflicts;
- 7. reflect the value of biodiversity and ecosystem health, in regard to ecosystem interdependence;
- 8. identify and protect special, sensitive, or unique estuarine and marine life and habitats, such as scenic and visual resources;
- 9. adapt to evolving knowledge and understanding of the marine environment, including climate change and sea level rise adaptation;
- 10. foster sustainable uses that capitalize on economic opportunity without significant detriment to the Sound's ecology or natural beauty;
- 11. support infrastructure needed to sustain the state's economy and quality of life;
- 12. identify appropriate locations and performance standards for activities, uses, and facilities regulated under state permit programs, such as measures to guide siting uses in a way that is consistent with the plan; and

13. reflect the importance of planning for the Sound as an estuary that crosses state boundaries, including identifying potential measures that encourage the planning.

Under the bill, the plan must be consistent with the inventory described above and provide for ongoing acquisition and application of up-to-date resource and use data, including seafloor mapping. It must be consistent with the State's Plan of Conservation and Development and the goals and policies in the state's Coastal Management Act.

The bill requires the plan to be developed by a transparent and inclusive process that seeks widespread public and stakeholder participation and encourages public input in decision making. The plan must be coordinated, developed, and implemented with New York, to the greatest extent possible. It must also be coordinated, to the greatest extent feasible, with local, regional, and federal planning entities and agencies that include the (1) Connecticut-New York Bi-State Marine Spatial Planning Working Group, (2) Long Island Sound Study, and (3) National Ocean Policy's Northeast Regional Planning Body (see BACKGROUND).

Areas Subject to the Plan

Waters and Submerged Lands. The waters and submerged lands subject to the commissioner's planning, management, and coordination authority under the plan include Long Island Sound and its bays and inlets, from the mean high water line to the state's waterward boundaries with New York and Rhode Island.

The bill specifies that the high water line is defined by the most recent data of the National Oceanic and Atmospheric Administration.

Spatial Planning Area. The bill requires the advisory committee (see below) to prepare a map showing a spatial planning area where the plan's siting policies, location identifications, or performance standards for activities, uses, and facilities must apply. The bill specifies that the area is located seaward of the bathymetric contour

(line of underwater depth) of minus ten feet North American Vertical Datum to the state's waterward boundaries with New York and Rhode Island, but not extending beyond the first motor vehicle or railroad bridge crossing the river of any river that flows into the Sound.

PUBLIC INVOLVEMENT AND COMMENTS

Developing the Draft Inventory and Plan

To help the commissioner develop the inventory and plan, the bill requires the advisory committee to hold at least three public hearings in different coastal municipalities for receiving public comments and submissions. It allows the committee to provide other public outreach and input measures to assure stakeholder engagement and representation.

While helping to complete the draft inventory and plan, but before they are available for public comment, the committee must consult with the economic and community development commissioner and representatives from:

- 1. the telecommunications industry,
- 2. waterfront businesses,
- 3. the state's two federally recognized Indian tribes, and
- 4. the tourism or recreation industry.

The bill also requires the committee, to the extent feasible, to consult with applicable New York state agencies, advisory counterparts, and the Connecticut-New York Bi-State Marine Spatial Planning Working Group to create a mutually agreeable process to develop the inventory and plan.

After Draft Completion

Once the draft inventory and plan are completed, the bill requires the DEEP commissioner to make them available for public review and comment for at least 90 days. He must post them, and the notice of public comment period, on DEEP's and the Office of Policy and

Management's websites. Notice must also be published in the *Environmental Monitor* and the *Connecticut Law Journal*.

The commissioner must adopt a final draft within 90 days after the public comment period ends.

GENERAL ASSEMBLY REVIEW

Under the bill, once a final draft of the plan is completed, the commissioner must submit it to the Environment Committee for review. The committee must hold a public hearing on the plan within 45 days after the start of the legislative session following the plan's receipt. It must then, within 45 days after the public hearing, submit to the General Assembly (1) the plan and (2) its recommendation for approval or disapproval.

The plan takes effect when it is approved by a majority vote of each chamber of the General Assembly. If the legislature disapproves it, in whole or part, it is deemed rejected and must be returned to the advisory committee for revision.

The bill requires revisions to the inventory and plan to be submitted to the Environment Committee and approved by the General Assembly, following the same procedure as described above. The DEEP commissioner is responsible for the review and update to the inventory and plan, which must occur at least once every five years.

PUBLIC OUTREACH PROGRAM

The bill requires the DEEP commissioner to develop and implement a public outreach and information program to inform the public about the plan. It also requires the advisory committee to hold at least one public hearing each year to receive public comments and submissions on the inventory and plan. The program and hearing must be accomplished within available resources.

USE OF THE INVENTORY AND PLAN

Under the bill, once the inventory and plan are approved as described, the plan must be considered when reviewing applications

for:

1. aquaculture operations permits or producer licenses, and seaweed planting and cultivation licenses;

- 2. shellfish grounds leases;
- 3. certificates of environmental compatibility and public need from the Connecticut Siting Council;
- 4. emergency or temporary authorizations for certain regulated activities to prevent loss of life, health, wealth, or property;
- 5. electric power line, gas pipeline, or telecommunications crossings of Long Island Sound;
- 6. dredging, erecting structures, placing fill, obstructions, or encroachments, or conducting work related to these activities, in tidal, coastal, or navigable waters waterward of the coastal jurisdiction line; or
- 7. coastal structure maintenance and other activities eligible for a certificate of permission from DEEP;
- 8. discharging water, substance, or material into state waters; or
- 9. a state water quality certification pursuant to federal law.

It allows the plan to be used for guidance in pre-application discussions between applicants and the DEEP commissioner.

The bill also requires the commissioner to seek federal approval needed to incorporate the plan as an enforceable policy in the state's coastal management program under the federal Coastal Zone Management Act.

ADVISORY COMMITTEE

Membership

Under the bill, the advisory committee consists of 16 members. It

includes (1) the DEEP, transportation, and agriculture commissioners, or their designees; (2) the OPM secretary, or his designee; (3) one Connecticut Siting Council representative; and (4) 11 appointed members, as Table 1 shows.

Table 1: Advisory Committee Appointees

Appointing Authority	Number	Qualifications
Governor	Five	A faculty member from UConn's marine sciences department
		One who represents the gas and electric distribution industries
		One who represents the shellfish industry or an organization familiar with commercial or recreational aquaculture
		One who represents a nonprofit conservation organization with expertise in marine assessments and planning
		One who represents coastal municipalities
Senate President Pro Tempore	One	A representative of a conservation organization that specializes in coastal issues
Senate majority leader	One	A representative of the commercial boating or shipping industries
Senate minority leader	One	A representative of the marine trades industry
House speaker	One	A representative of the commercial finfish industry
House majority leader	One	A representative of coastal municipalities
House minority leader	One	A representative of the recreational fishing and hunting community

Under the bill, the DEEP commissioner serves as the committee's chairperson and must convene the first meeting by August 30, 2015 (i.e., 60 days after July 1, 2015). The bill allows him to ask committee members to help with administrative functions, such as convening and noticing meetings and drafting assessments and reports.

The bill places the committee in DEEP for administrative purposes

only. Thus, it makes DEEP responsible for, among other things, providing administrative and clerical functions for the committee to the extent the DEEP commissioner considers it necessary.

Committee Responsibilities

In addition to helping the DEEP commissioner develop the draft inventory and plan, the bill requires the committee to advise the commissioner on operating, implementing, and updating the inventory and plan within six months after the General Assembly's approval. It must also meet quarterly to review the plan's implementation, identify emerging issues, and recommend any needed or desired changes to the plan.

BACKGROUND

Long Island Sound Study

In 1985, in an effort to better protect Long Island Sound, the federal Environmental Protection Agency, Connecticut, and New York formed the Long Island Sound Study, a bi-state partnership consisting of federal and state agencies, user groups, organizations, and individuals seeking to restore and protect the Sound.

National Ocean Policy's Northeast Regional Planning Body

Formed by a presidential Executive Order in 2010, the National Ocean Policy was established to help manage the country's oceans and coasts. The policy encourages a science-based spatial planning process to analyze current and future uses of ocean, coastal, and Great Lakes areas. The approach is executed through regional planning bodies. Members of the Northeast Regional Planning Body include federal, tribal, state, and New England Fishery Management Council representatives.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Yea 28 Nay 1 (03/11/2015)